

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 939 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANUBHAI M PATEL

Versus

DIRECTOR OF AGRICULTURE

Appearance:

None present for Petitioner

MR LR PUJARI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/03/98

ORAL JUDGMENT

The matter was called out for hearing in the first round, then in the second round and lastly in the third round, but none put appearance on behalf of the petitioner. Perused the Special Civil Application, reply to the Special Civil Application and heard the learned counsel for the respondents.

2. The petitioner was temporarily promoted and appointed to Gujarat Agricultural Services, Class-II, in the pay scale of Rs.350-850 and posted on the post of Sub Divisional Soil Conservation Officer, Bhavnagar, vide order dated 26.9.73 of respondent No.1. In pursuance of the said order, the petitioner went to join on the promotional post at Bhavnagar but he found that his posting at Bhavnagar was incorrect. In fact, he has been posted at Himmatnagar. The petitioner reported the matter to the respondent for making necessary correction and necessary correction came to be made under the order dated 26th December 1973. In the meanwhile, under the order dated 9.11.73, the order of promotion of the petitioner dated 26.9.73 was ordered to be kept in abeyance. This has been done as in the civil suit filed by some other persons, the Civil Court, Junagadh, has granted injunction. Later on when the injunction granted by the civil Court has been vacated, the petitioner has been given promotion in December 1978. The petitioner has claimed in the Special Civil Application that his promotion should have been treated from September 1973 and he should be given all the consequential benefits following therefrom.

3. From the facts of this case, I find that the petitioner is not at fault in the matter, but he could not get the benefit of promotion as the civil Court has issued injunction. After vacation of that injunction order, the petitioner has been given promotion. So prima-facie, the grievance made by the petitioner in this Special Civil Application cannot be said to be without any basis or foundation.

4. In the result, this Special Civil Application is disposed of in terms that the respondent No.1 shall consider the claim of the petitioner for his promotion from September 1973 in Gujarat Agricultural Services Class-II post and in case his claim is found to be acceptable, he shall be given all the consequential benefits in accordance with law. This exercise shall be undertaken and completed within a period of three months from the date of receipt of writ of this order, and the consequential benefits shall be given to the petitioner within a period of two months next. However, in case the claim of the petitioner is not acceptable, a reasoned order may be passed and a copy of the same may be sent to the petitioner by registered post A.D. Liberty is granted to the petitioner for revival of this Special Civil Application in case of difficulty.

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(sunil)